

POSTSCRIPT

TO THE SECOND EDITION OF A PAMPHLET, ENTITLED, THE OREGON QUESTION, &c.

By THOMAS FALCONER, Esq.

MR GREENHOW, the author of the "History of Oregon and California," has published a pamphlet, dated Washington, April 1845, entitled, "An Answer to the Strictures of Mr Thomas Falconer, of Lincoln's Inn, on the History of Oregon and California." In noticing this answer, it is convenient, for the sake of brevity, to take each of the complaints of Mr Greenhow separately.

1st. Mr Falconer preferring, in every instance in which it was practicable, to use American authorities, has, in his argument on the Oregon Question, cited from the "History of the Federal Government," written by Alden Bradford, LL.D., Editor of the Massachusetts State papers, the following passage respecting the extent of the purchase of Louisiana from France by the government of the United States:—

"The purchase included all lands 'on the east side of the Mississippi River (so as to include New Orleans), not then belonging to the United States, as far as the great chain of mountains which divide the waters running into the Pacific and those falling into the Atlantic Ocean; and from the said chain of mountains to the Pacific Ocean, between the territory claimed by Great Britain on the one side, and by Spain on the other.'"

The words in Italics are placed between inverted commas, as a citation, by Dr Bradford himself; they are not the words of Mr Falconer. Mr Falconer, adopting Dr Bradford as his authority, cites the passage as expressing the terms of an agreement to which the Treaty of 1803 for the purchase of Louisiana gave validity; and so far a conveyance of Louisiana in these terms, under the treaty. Whether he is correct or not depends upon the value of Dr Bradford's authority. Mr Greenhow does not say, that the quotation is incorrect, nor does he deny the statement of Dr Bradford. There appears to be no reason to doubt that the passage was part of the official terms of the sale of Louisiana. Mr Greenhow states, however, that "his surprise was great on finding that Mr Falconer had presented this passage as a stipulation in the Treaty of October, 1803." The fact is, that Mr Falconer, in his work "On the Discovery of the Mississippi," &c. referred to the passage as part of the terms of the Treaty; but in his first edition (p. 10), and in the second edition (p. 11), thinking he might be misunderstood, he speaks of it as part of the terms "of the agreement" for the sale of Louisiana. The terms are not in the Treaty itself, for the reason, perhaps, which induced Mr Jefferson in 1807, three years after the purchase of Louisiana, to fear that any allusion to any claim extending to the coast of the Pacific would be offensive to Spain (Greenhow on the Oregon, p. 282). But though the citation is not in the Treaty itself, it does not follow

that it is not part of the agreement on which the Treaty is founded. It is thus represented by Dr Bradford, and Mr Greenhow does not say that the passage is in any respect inaccurate.

2ndly. Mr Falconer has shown, that prior to the exercise of authority in the Oregon Territory, under the orders of the government of the United States, the government of Great Britain had "taken possession" of it, and "that the 'taking possession' of a new country by persons officially authorised—and no private person could assume the authority—was the exercise of a sovereign power, a distinct act of legislation by which the territory became annexed to the dominions of the Crown." To this Mr Greenhow replies, "that Mr Falconer forgot or concealed the fact, that Spanish officers had landed on all those coasts, and on each occasion, had most formally taken possession in the name of their monarch, and had made a settlement by the special orders of their government, before any attempt for the same purpose had been made there by the people of any other nation."* But Mr Falconer has not acted thus; he has shown that two things are required to complete a title to vacant wastes; the one, the official assertion of sovereignty, and the other, occupation. The first, alone, is of no avail without occupation. But it is well known that the Spaniards never occupied the country. If they had done so the government of the United States could have made no claim to any part of it in 1814. The country was open to any government to possess and occupy it, notwithstanding any mere formal act of possession unaccompanied by occupation, which any government might previously have made. Such possession of Oregon, accompanied by occupation, was first made under the authority of the British government, and its right to do this was recognized in the Convention of the Escorial in 1792.

3dly. "No authority," says Mr Greenhow, "on the part of the British government was alleged by the claimants of Nootka Sound, whose cause was supported by the British government in 1790, at a risk of a war with Spain." This statement Mr Falconer does not controvert. The Nootka dispute might not have arisen if the Spanish officers had not unjustifiably seized the vessels of British subjects. But whatever defect in a title to settle at Nootka might have existed through Mears's proceedings, the British government had a perfect right to settle the Oregon Territory, as a waste and abandoned territory—to instruct Vancouver to take possession of it—and to authorize the Hudson's Bay Company to form establish-

* The following passages are only to be reconciled by proving that Martinez made a permanent settlement in the Oregon Territory. This Mr Greenhow would be unable to prove. The Spaniards did not visit the country after the Nootka affair was settled.

"It should be observed, with regard to the right of the Spanish government to take possession of Nootka, that, before the 6th of May, 1789, when Martinez entered the Sound with that object, no settlement, factory, or other establishment whatsoever, had been founded or attempted, by the authorities or subjects of a civilized nation in any part of America bordering on the Pacific Ocean. — Forgetting or concealing the facts, that Spanish officers had landed on all those coasts, and, on each occasion, had most formally taken possession in the name of their monarch, and had made a settlement by direct and special orders of their government, before any attempt for the same purpose had been made there by the people of

ments in it, independently of the Treaty of the Escorial, which also sanctions the establishment of British settlements in the country.

4thly. Mr Greenhow complains that a passage in his work respecting the northern boundary of Louisiana is "entirely misquoted." The whole passage is as follows:—

"—referring to the state of things at the commencement of this century"—"the territories of the United States were, at that time, all included between the Atlantic on the east, and the Mississippi on the west. In the north were the British Provinces; in the west lay Florida belonging to Spain; and beyond the Mississippi the Spaniards claimed the east region called Louisiana, stretching from the gulf of Mexico northward and north-westward to an undefined extent."

Mr Falconer has cited the last lines only, in order to controvert the statement, that Louisiana ever extended indefinitely to the north. The other portions of the passage do not qualify or affect the assertion of the extent of Louisiana, and were therefore omitted. The reasons to prove that Louisiana did not extend indefinitely to the north are—that no authority is cited by Mr Greenhow in support of his assertion; that Louisiana was a subordinate to, and partly formed out of the Province of, Canada; that, according to the representation of Vaudreuil, who surrendered Canada to Great Britain, Louisiana did not reach further to the north than the Illinois; that its extent was a distinct subject of negotiation when the Treaty of cession in 1762 was made; and that in 1762, all to the north of the Illinois, and south of the Hudson's Bay Territory, formed a part of Canada. When, therefore, the Treaty of 1762 fixed the source of the Mississippi as the highest point of the dividing line between the territories of Great Britain and France, east and west of it, all the Territory north and north-west of the source remained a portion of Canada. Mr de Mofras states that the official map of the French government engraved in 1757 supports this statement, but Mr Greenhow appears to assert that this map relates to the negotiations of 1748. The dates do not confirm this view of the case, but setting the map aside, it is still evident, that, as Louisiana, at the time Canada was ceded, did not reach further north than the Illinois, it could not reach further north than the source of the Mississippi after this point was fixed on as the most northern point of Louisiana by the Treaty of 1762.

5thly. Mr Falconer remarks that it is not honourable for the government of the United States to urge measures to populate the Oregon Territory, in order to enforce its claims at a future time. To this Mr Greenhow replies that the Hudson's Bay Company, in 1837, "claimed and received the aid and consideration of the British government for their energy and success in expelling the Americans from the Columbia regions, and forming settlements there, by means of which they were rapidly converting Oregon into

during upon the Pacific between Port any other nation."—'Mr Green-San Francisco, near the 38th deg. of N. how's Strictures,' pp. 3 and 4. latitude and Prince William's Sound, near the 60th.'—'Greenhow's History of Oregon,' &c. p. 187.

In the declaration of the government of Spain, dated Aranjuez, June 4, 1790, the Conde de Florida Blanca admitted, that Spain had no establishments or colonies planted on the coasts or ports in dispute.

a British colony." But this is no reply. Mr Greenhow must be perfectly satisfied that the British government has not entertained the wish to settle the dispute by the agency of any forcible or hostile operations on the part of the British population in Oregon. Whatever reasons the Hudson's Bay Company may have advanced for official favour,—and if improper, they are surely not to be adopted by the government of the United States—they have not interfered with that regard for public rights which the British government has exhibited, but which Mr Greenhow avers ought not to form a portion of the policy of the American government, whose true policy, he asserts, ought to be, "by all lawful means, to resist the extension of European dominions in America, and to confine its limits and abridge its duration, wherever it may actually exist."—(Greenhow on the Oregon, p. 335, n.) Can that be lawfully abridged, which lawfully belongs to a foreign government?

The above are all the facts in Mr Falconer's argument, which Mr Greenhow ~~specifically~~ comments on. He says, there are in it "mistakes, misquotations, and misrepresentations of all kinds," but he certainly would not have been backward in pointing them out if they were to be found. The argument, he admits, would be "irrefragable," if the facts were correct,—but the facts are, in nearly every instance, carefully sustained by a reference to Mr Greenhow's own work.

Mr Falconer himself did not think his argument was irrefragable. He thought it possible that he had overlooked something, and that there might have been a fair reply made to it. The answer, however, of Mr Greenhow, has strengthened his belief that he is right, for Mr Greenhow would not have printed so feeble a denial, if the really immaterial matters which he has noticed were not all that he could find fault with, or attempt to answer.

The very discourteous and intemperate spirit in which Mr Greenhow has written his reply can only be injurious to his own reputation.

There are some other remarks which the writer reluctantly alludes to on account of their personal character. Mr Greenhow states that the more valuable portion of the documents published by Mr Falconer on the discovery and settlement of Louisiana "were already well known in the United States (see Sparke's Life of M. Salle, and White's 'New Recopilation,') and that a number still greater of more interesting papers on the same subject lie in manuscript before him." Whatever had been previously published, Mr Falconer has noticed, and his estimation of the literary services of Mr Sparks, as well as a sense of justice, led him to acknowledge with care what he had already done. Whether what Mr F. has first published is more or less valuable than what had previously been published, he will not contest, but he most sincerely hopes that Mr Greenhow, whose industry will enable him to perform the labour creditably,—who will find no willing critics to condemn him in its performance,—will publish the interesting documents to which he alludes, and give to the world a complete and consecutive collection of the memoirs and papers of the adventurous and distinguished men who first explored the western territory of North America.

PUTNEY, May 28, 1845.